

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

In the Matter of the Search of:

Information associated with the Facebook Name Jeffrey
Benson and Facebook Identification (UID)
100038453413402, and more fully described in
Attachment A

Case No. 19-957M(NTJ)

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property:

See Attachment A

located in the Eastern District of Wisconsin, there is now concealed:

See Attachment B

The basis for the search under Fed. R. Crim P. 41(c) is:

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to violations of:
18 U.S.C. §§ 2113(a) and 2113(d)

The application is based on these facts: See attached affidavit.


☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

Daniel Gartland, SA
Printed Name and Title

Sworn to before me and signed in my presence:

Date: November 15, 2019


Judge's signature

City and State: Milwaukee, Wisconsin

Nancy Joseph, U.S. Magistrate Judge
Printed Name and Title

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Daniel Gartland, being first duly sworn, hereby depose and state as follows:

I. INTRODUCTION, BACKGROUND, TRAINING, AND EXPERIENCE

1. I am a Special Agent with the Federal Bureau of Investigation and have been so employed since May 2018. Since October 2018, I have been assigned to the Milwaukee FBI Violent Crime Task Force. This Task Force is a multi-jurisdictional law enforcement entity charged with investigating violations of federal law, including bank robberies, commercial robberies and other violent crime matters, defined under Title 18 of the United States Code.

2. I have been trained in a variety of investigative and legal matters, including the topics of Fourth Amendment searches, the drafting of search warrant affidavits, and probable cause. I have assisted in criminal investigations, participating in surveillance, interviews, and debriefs of arrested subjects. As a result of this training and investigative experience, I have learned how and why violent actors typically conduct various aspects of their criminal activities.

3. This affidavit is based upon my personal knowledge, my training and experience, and on information reported to me by other federal, state, and local law enforcement officers during the course of their official duties, all of whom I believe to be truthful and reliable. This affidavit is also based upon police reports, official records, citizen witnesses' statements, business records, law enforcement surveillance, surveillance video, social media, court records, telephone records, and public records which I consider to be reliable as set forth herein. The facts of this Affidavit are based upon information obtained from my investigation, as well as information I have received from other law enforcement officers.

4. Based on the investigation to date, I submit that there is probable cause to believe that on or about September 13, 2019, Jeffrey D. Benson (DOB XX/XX/1965) and at least one

other person conspired to commit and committed an armed robbery of Prime Financial Credit Union, located at 1923 West Oklahoma Avenue, Milwaukee, Wisconsin, in violation of Title 18, United States Code, Sections 2113(a), 2113(d), and 2 (Armed Bank Robbery) and 924(c) and 2 (use of a firearm during a crime of violence).

5. This affidavit is submitted in support of an application for a search warrant for Jeffrey Benson's Facebook account, for evidence of Benson's and others' involvement in the September 13, 2019 armed robbery of Prime Financial Credit Union.

6. More specifically, I seek authorization to search Facebook's information associated with Jeffrey Benson (DOB XX/XX/1965), who is the user associated with the Facebook account with the following user name and ID number:

FACEBOOK NAME	FACEBOOK IDENTIFICATION (UID)
Jeffrey Benson	100038453413402

7. The information I seek is stored at premises owned, maintained, controlled, or operated by Facebook, a social networking company headquartered in Menlo Park, California, from at least approximately August 15, 2019, to the present.

8. Because this affidavit is submitted for the limited purpose of obtaining a search warrant, I have not included each and every fact known to me concerning this investigation. I have attempted to set forth only the facts I believe are pertinent to establishing the necessary foundation for the warrant.

II. PROBABLE CAUSE

9. On September 13, 2019, two male subjects committed an armed robbery of Prime Financial Credit Union, a federally insured financial institution located at 1923 West Oklahoma Avenue, Milwaukee, Wisconsin. The subjects entered the credit union at approximately 11:19

a.m. Subject #1 brandished two semi-automatic handguns, one in each hand, and ordered customers and employees to the floor. Subject #2 climbed over the teller counter and obtained cash from three teller drawers. The subjects then exited the bank with approximately \$16,112 in U.S. currency.

10. Subject #1 was described as a black male with a slender build. The subject was wearing a dark knit hat, dark sunglasses, white mask, dark navy jacket, white latex gloves, grey sweatpants, and grey vans shoes. Subject #1 brandished an all-black semi-automatic handgun and a silver-over-black semi-automatic handgun.

11. Subject #2 was described as a black male with a heavy build. The subject was wearing a red True Religion "puffer" style winter coat with the hood up and horseshoe logo on the left breast, white mask, dark pants black shoes and blue latex gloves.

12. The bank surveillance footage captured the activity described above. In addition, the footage shows a black Chevrolet Trailblazer travel through the alley adjacent to the credit union in a northbound direction. The Trailblazer backed into a parking space along the alley. Both subjects emerged from the area where the car parked and walk to the credit union.

13. Investigators obtained nearby surveillance footage from 3130 South 20th Street, an apartment building next to the Prime Financial Credit Union. The video shows an alley that exists alongside the credit union. In the minutes prior to the robbery, the video showed a black Chevrolet Trailblazer (hereinafter "Trailblazer") traveling northbound in the alley headed in the direction of the bank. The Trailblazer had a luggage rack and no front plate.

14. Investigators obtained video from Milwaukee County Transit System (MCTS) buses traveling in the 3100 block of South 20th Street just before and after the robbery. The footage shows the same Trailblazer, with a luggage rack and all other distinct features, going south past the bank at least twice, essentially looping around the credit union prior to the

robbery. Based upon my training and experience, the occupants of the Trailblazer were casing the credit union prior to the robbery. At 11:08 a.m., the Trailblazer is observed on video from bus number 5175 with Wisconsin vehicle registration plate AFF1865 affixed to the rear of the vehicle. The Trailblazer was headed in a southbound direction on South 20th Street, passing the bank. At 11:17 a.m., the Trailblazer is observed on video from bus number 5188, but there was no longer a license plate affixed to the rear of the vehicle. At that time, the Trailblazer was again headed in a southbound direction and made a left turn (headed east) onto Euclid Avenue. The Trailblazer then turned left (northbound) into the alley that runs adjacent to the bank. At the time the Trailblazer passed bus number 5188, the front passenger window was partially down, and the footage shows a black male passenger sitting in the front passenger seat.

15. Wisconsin vehicle registration plate AFF1865 listed to a black 2007 Chevrolet Trailblazer. The registered owner of the vehicle was Jeffrey Benson. Benson's cellular telephone is listed as 414-856-6621 with Wisconsin Department of Corrections, Probation and Parole. On September 25, 2019, investigators observed Benson driving the Trailblazer. While under surveillance, he drove the car to 4556 North 71st Street, Milwaukee, and entered the residence. Law enforcement officers observed Benson at that residence on several other occasions as well.

16. Investigators obtained a search warrant for the historical cellular tower location data associated with telephone number 414-856-6621. On the date of the robbery, the telephone connected with towers that served an area near 4556 North 71st Street from 2:31 a.m. to 7:58 a.m. At 10:50 a.m., the telephone connects with a tower located at 1568 West Pierce Street, Milwaukee, WI, which is approximately 2.7 miles from the victim credit union. Prior to the robbery at 11:09 a.m., the telephone connects with a tower that serves an area including the credit union. The robbery occurred at approximately 11:19 a.m. After the robbery at 11:25 a.m., the phone connected with a tower located approximately 1.5 miles from the credit union at 3003

West Cleveland Avenue. At 11:47 a.m., the phone again connected with a tower serving the area of 4556 North 71st Street.

17. On October 8, 2019, Benson was observed entering Check 'n Go, W182 N9606 Appleton Avenue, Suite 106, Germantown, WI. Benson provided Check 'n Go with the mobile telephone number 414-856-6621. As Benson exited the location, he was observed speaking on a cellular telephone.

18. On October 13, 2019, Benson was observed driving the Trailblazer. Law enforcement officers followed Benson south. Based upon information collected from a GPS tracking device and law enforcement databases, the Trailblazer is currently in the area of Atlanta, Georgia. Benson has absconded from Wisconsin state probation and a warrant has been issued for his arrest.

19. Phone records for 414-856-6621 reflect 22 instances during September 2019 in which the phone connected with number "32665." Number "32665" is a Facebook mobile phone shortcut used to update a user profile. Investigators queried Facebook.com for the name, "Jeffrey D Benson," which returned the account: <https://www.facebook.com/jeffery.benson.501>. The Facebook User ID associated with this account is: 100038453413402. The profile picture associated with the account includes an individual that appears to be the same Jeffrey Benson surveilled by investigators in connection with the above-referenced robbery. The background of the profile picture includes a vehicle that appears to be a black Chevrolet Trailblazer of a similar model to the vehicle used in the robbery. Additionally, the profile indicates the user is from Milwaukee, WI.

20. Based upon my training and experience, I know that individuals often post photographs and other messages containing information relevant to their involvement in crimes. For example, a search of Facebook will reveal photographs of the Trailblazer depicted in the

profile picture. In addition, a search may reveal photographs of an individual wearing clothing consistent with a suspect's clothing during a robbery. Similarly, individuals who possess firearms often post photographs or other messages indicative of firearm possession to the Facebook account.

21. I further anticipate that a search of Benson's Facebook account will reveal further information about his current whereabouts.

III. FACEBOOK INFORMATION

22. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

23. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers (for password retrieval), physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

24. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account

includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

25. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

26. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post "status" updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming "events," such as social occasions, by listing the event's time, location, host, and guest list. In addition, Facebook users can "check in" to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user's profile page also includes a "Wall," which is a space where the user and his or her "Friends" can post messages, attachments, and links that will typically be visible to anyone who can view the user's profile.

27. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to "tag" (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook's purposes, the photos and videos associated with a

user's account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

28. Facebook users can exchange private messages on Facebook with other users. These messages, which are similar to e-mail messages, are sent to the recipient's "Inbox" on Facebook, which also stores copies of messages sent by the recipient, as well as other information. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated with a specific posting or item on the profile. In addition, Facebook has a Chat feature that allows users to send and receive instant messages through Facebook. These chat communications are stored in the chat history for the account. Facebook also has a Video Calling feature, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

29. If a Facebook user does not want to interact with another user on Facebook, the first user can "block" the second user from seeing his or her account.

30. Facebook has a "like" feature that allows users to give positive feedback or connect to particular pages. Facebook users can "like" Facebook posts or updates, as well as webpages or content on third-party (*i.e.*, non-Facebook) websites. Facebook users can also become "fans" of particular Facebook pages.

31. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

32. Each Facebook account has an activity log, which is a list of the user's posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as "liking" a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user's Facebook page.

33. Facebook Notes is a blogging feature available to Facebook users, and it enables users to write and post notes or personal web logs (“blogs”), or to import their blogs from other services, such as Xanga, LiveJournal, and Blogger.

34. The Facebook Gifts feature allows users to send virtual “gifts” to their friends that appear as icons on the recipient’s profile page. Gifts cost money to purchase, and a personalized message can be attached to each gift. Facebook users can also send each other “pokes,” which are free and simply result in a notification to the recipient that he or she has been “poked” by the sender.

35. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

36. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

37. Some Facebook pages are affiliated with groups of users, rather than one individual user. Membership in the group is monitored and regulated by the administrator or head of the group, who can invite new members and reject or accept requests by users to enter. Facebook can identify all users who are currently registered to a particular group and can identify the administrator and/or creator of the group. Facebook uses the term “Group Contact Info” to describe the contact information for the group’s creator and/or administrator, as well as a PDF of the current status of the group profile page.

38. Facebook uses the term “Neoprint” to describe an expanded view of a given user profile. The “Neoprint” for a given user can include the following information from the user’s profile: profile contact information; News Feed information; status updates; links to videos,

photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications.

39. Facebook also retains Internet Protocol ("IP") logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user's IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

40. Social networking providers like Facebook typically retain additional information about their users' accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

41. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a

Facebook user's "Neoprint," IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use, and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to "tag" their location in posts and Facebook "friends" to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner's state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner's motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

42. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning

subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

IV. INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

43. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment.

V. CONCLUSION

44. Based upon the facts contained within this affidavit, I believe that probable cause exists to search Jeffrey Benson's Facebook Account, as further described in Attachment A, for further evidence of his and others' involvement in the armed bank robbery described above.

ATTACHMENT A

Property to Be Searched

To the extent that the information described in Attachment B is within the possession, custody, or control of Facebook, Facebook is required to disclose to the government the information, for the dates of August 15, 2019, to the present, for the following account:

FACEBOOK NAME	FACEBOOK IDENTIFICATION (UID)
Jeffrey Benson	100038453413402

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Facebook

To the extent that the information described in Attachment A is within the possession, custody, or control of Facebook, including any messages, records, files, logs, or information that have been deleted but are still available to Facebook, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Facebook is required to disclose the following information to the government for each user ID listed in Attachment A:

- a. All contact and personal identifying information, including: full name, user identification number, birth date, gender, contact e-mail addresses, Facebook passwords, Facebook security questions and answers, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- b. All activity logs for the account and all other documents showing the user's posts and other Facebook activities;
- c. All photos uploaded by that user ID and all photos uploaded by any user that have that user tagged in them;
- d. All profile information; News Feed information; status updates; links to videos, photographs, articles, and other items; Notes; Wall postings; friend lists, including the friends' Facebook user identification numbers; groups and networks of which the user is a member, including the groups' Facebook group identification numbers; future and past event postings; rejected "Friend" requests; comments; gifts; pokes; tags; and information about the user's access and use of Facebook applications;

- e. All other records of communications and messages made or received by the user, including all private messages, chat history, video calling history, and pending “Friend” requests;
- f. All “check ins” and other location information;
- g. All IP logs, including all records of the IP addresses that logged into the account;
- h. All records of the account’s usage of the “Like” feature, including all Facebook posts and all non-Facebook webpages and content that the user has “liked”;
- i. All information about the Facebook pages that the account is or was a “fan” of;
- j. All past and present lists of friends created by the account;
- k. All records of Facebook searches performed by the account;
- l. All information about the user’s access and use of Facebook Marketplace;
- m. The types of service utilized by the user;
- n. The length of service (including start date) and the means and source of any payments associated with the service (including any credit card or bank account number);
- o. All privacy settings and other account settings, including privacy settings for individual Facebook posts and activities, and all records showing which Facebook users have been blocked by the account;
- p. All records pertaining to communications between Facebook and any person regarding the user or the user’s Facebook account, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence, and instrumentalities of violations of 18 U.S.C. §§ 2113(a) and 2113(d) (armed bank robbery) and

924(c) (use of a firearm during crime of violence), since August 15, 2019 through the Present, for the user ID identified on Attachment A, information pertaining to the following matters:

- (a) The relevant offense conduct, any preparatory steps taken in furtherance of the criminal scheme, and communications between Jeffrey Benson and others related to the relevant offense conduct of robbery or Jeffrey Benson's or others' possession of firearms.
- (b) Evidence indicating how and when the Facebook account was accessed or used, to determine the chronological and geographic context of account access, use, and events relating to the crime under investigation and to the Facebook account owner;
- (c) Evidence indicating the Facebook account owner's state of mind as it relates to the crimes under investigation;
- (d) The identity of the person(s) who created or used the user ID; and
- (e) The identity of the person(s) who communicated with the user ID about matters relating to relevant offense conduct of robbery.